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7 UNITED STATES DISTRICT COURT  
8 WESTERN DISTRICT OF WASHINGTON  
9 AT SEATTLE

10 NATHEN DWAYNE BAKER,

11 Plaintiff,

12 v.

13 DEPARTMENT OF THE AIR  
14 FORCE - LEWIS MCCHORD,

15 Defendant.

CASE NO. C21-5201JLR

ORDER

16 Before the court is the Report and Recommendation filed by Magistrate Judge  
17 Mary Alice Theiler (R&R (Dkt. # 8)) and the objections thereto filed by Plaintiff Nathen  
18 Dwayne Baker (Obj. (Dkt. # 12); *see also* Misc. Doc. (Dkt. # 13)). Magistrate Judge  
19 Theiler recommends that the court deny Mr. Baker's request to proceed in forma pauperis  
20 ("IFP") and dismiss Mr. Baker's complaint without leave to amend pursuant to 28 U.S.C.  
21 § 1915(e)(2)(B). (*See* R&R at 3.) The court has reviewed the Report and  
22 Recommendation, Mr. Baker's objections, the balance of the record, and the governing

1 law. Being fully advised, the court ADOPTS Magistrate Judge Theiler's Report and  
2 Recommendation.

3 Title 28 U.S.C. § 1915(e)(2)(B) authorizes a district court to dismiss a claim filed  
4 IFP "at any time" if it determines: (1) the action is frivolous or malicious; (2) the action  
5 fails to state a claim; or (3) the action seeks relief from a defendant who is immune from  
6 such relief. *See* 28 U.S.C. § 1915(e)(2)(B). Because Mr. Baker is a *pro se* plaintiff, the  
7 court must construe his pleadings liberally. *See McGuckin v. Smith*, 974 F.2d 1050, 1055  
8 (9th Cir. 1992).

9 Mr. Baker states that he is bringing his action pursuant to 42 U.S.C. § 1983. (*See*  
10 *Obj.* at 1.) Although Mr. Baker named Defendant Department of the Air Force – Lewis  
11 McChord in his complaint (*see Compl.* (Dkt. # 1)), he does not explain the basis of his  
12 claim against Defendant in either his objections or the additional document he filed on  
13 June 1, 2021. (*See Obj.*; *Misc. Doc.*) Thus, even construing Mr. Baker's pleadings  
14 liberally, as it must, the court remains unable to determine the basis of Mr. Baker's  
15 claims.

16 When a court dismisses a *pro se* plaintiff's complaint, the court must give the  
17 plaintiff leave to amend unless it is absolutely clear that amendment could not cure the  
18 defects. *Lucas v. Dep't of Corr.*, 66 F.3d 245, 248 (9th Cir. 1995). Here, the court  
19 concludes that there is no reasonable basis to believe that the deficiencies identified in the  
20 Report and Recommendation can be cured by amendment. Because this action appears to  
21 be frivolous and fails to state a claim upon which relief may be granted, the court  
22 ADOPTS Magistrate Judge Theiler's Report and Recommendation (Dkt. # 8) and

1 DISMISSES Mr. Baker's complaint without prejudice pursuant to 28 U.S.C.  
2 § 1915(e)(2)(B).

3 Dated this 2nd day of June, 2021.

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6 JAMES L. ROBART  
7 United States District Judge  
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